

1 John C. Hueston, State Bar No. 164921
jhueston@hueston.com
2 Moez M. Kaba, State Bar No. 257456
mkaba@hueston.com
3 Steven N. Feldman, State Bar No. 281405
sfeldman@hueston.com
4 HUESTON HENNIGAN LLP
523 West 6th Street, Suite 400
5 Los Angeles, CA 90014
Telephone: (213) 788-4340
6 Facsimile: (888) 775-0898

**Attorneys for Plaintiff
MONSTER ENERGY COMPANY**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

12 MONSTER ENERGY COMPANY, a
13 Delaware corporation.

14 Plaintiff.

15 || vs.

16 VITAL PHARMACEUTICALS, INC.
17 c/b/a VPX Sports, a Florida corporation,
and JOHN H. OWOC a.k.a. JACK
OWOC, an individual.

Defendants.

| Case No. 5:18-cv-1882-JGB-SHK

Hon. Jesus G. Bernal
Hon. Shashi H. Kewalramani

**DECLARATION OF MICHAEL H.
TODISCO IN SUPPORT OF
PLAINTIFF MONSTER ENERGY
COMPANY AND THIRD PARTIES
MARC MILES AND SHOOK,
HARDY & BACON L.L.P.'S MOTION
TO QUASH DEFENDANT VITAL
PHARMACEUTICALS, INC.'S
SUBPOENAS**

1 **DECLARATION OF MICHAEL H. TODISCO**

2 I, Michael H. Todisco, declare as follows:

3 1. I am an attorney at Hueston Hennigan LLP, Monster Energy Company's
4 counsel of record for in this case. I am a member in good standing of the State Bar
5 of California and am admitted to practice in this Court. I have personal knowledge
6 of the facts set forth herein and could and would testify competently to those facts
7 under oath if called as a witness.

8 2. Attached hereto as **Exhibit 1** is a true and correct copy of an Instagram
9 post by Defendant Vital Pharmaceuticals, Inc.'s ("VPX") CEO – Defendant Jack
10 Owoc ("Owoc"). Owoc's post was published June 8, 2019 and was posted under the
11 user name @bangenergy.ceo. The post is available at the following link:
12 https://www.instagram.com/p/ByeLSMwg8_S/. I last accessed the link on January
13 22, 2020.

14 3. Attached hereto as **Exhibit 2** is a true and correct copy of a September
15 6, 2018 article published by BevNET, a beverage-oriented media company. The
16 article is available at the following link:

17 <https://www.bevnet.com/news/2018/monster-energy-sues-vpx-bang-energy-claims>. I
18 last accessed the link on January 22, 2020.

19 4. Attached hereto as **Exhibit 3** are true and correct excerpts from the
20 transcript of the January 13, 2020 hearing on this motion before the Honorable Judge
21 Shashi H. Kewalramani.

22

23

24

25

26

27

28

1 5. On or about November 8, 2019, VPX served subpoenas on Monster's
2 former lead counsel in this case (Marc P. Miles) and his law firm (Shook, Hardy &
3 Bacon L.L.P.). To my knowledge, these subpoenas are the first third-party
4 subpoenas that VPX has served since June of 2019, when VPX served several
5 unrelated subpoenas in connection with Monster's motion for a preliminary
6 injunction.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 22nd day of January 2020, at Los Angeles, California.

/s/ Michael H. Todisco

Michael H. Todisco